# LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

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# MONTANA LEGISLATIVE HISTORY

Chapter 403 1997

Bill H 491 S _____ Original bill & history ✓ C

| H. Committee on Education & Cultural Resources | | | S. Committee on Education & Cultural Resources | | |
|---|---|---|---|---|---|
| Hearing Date(s) | 2-12 | ___C | Hearing Date(s) | 3-14 | ___C |
| | 2-14 | ___C | | 3-17 | ___C |
| | _____ | ___C | | 3-19 | ___C |
| | _____ | ___C | | _____ | ___C |
| Date Out | 2-14 | ___C | DATE OUT | 3-19 | |

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Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HB 491 INTRODUCED BY REHBEIN, ET AL. *LC1269 DRAFTER: ERICKSON*

REVISE THE LAWS RELATING TO THE TRANSFER OF TERRITORY FROM ONE SCHOOL DISTRICT TO ANOTHER

| | | | |
|---|---|---|---|
| 2/07 | INTRODUCED | | |
| 2/07 | FIRST READING | | |
| 2/07 | REFERRED TO EDUCATION & CULTURAL RESOURCES | | |
| 2/12 | HEARING | | |
| 2/17 | COMMITTEE REPORT—BILL PASSED | | |
| 2/21 | 2ND READING PASSED AS AMENDED | 78 | 20 |
| 2/26 | 3RD READING PASSED | 67 | 33 |
| | TRANSMITTED TO SENATE | | |
| 3/04 | FIRST READING | | |
| 3/04 | REFERRED TO EDUCATION & CULTURAL RESOURCES | | |
| 3/14 | HEARING | | |
| 3/20 | COMMITTEE REPORT—BILL CONCURRED AS AMENDED | | |
| 3/26 | 2ND READING CONCURRED | 50 | 0 |
| 3/27 | 3RD READING CONCURRED | 49 | 1 |
| | RETURNED TO HOUSE WITH AMENDMENTS | | |
| 4/11 | 2ND READING AMENDMENTS CONCURRED | 69 | 27 |
| 4/12 | 3RD READING CONCURRED AS AMENDED | 71 | 25 |
| 4/17 | SIGNED BY SPEAKER | | |
| 4/17 | SIGNED BY PRESIDENT | | |
| 4/18 | TRANSMITTED TO GOVERNOR | | |
| 4/28 | SIGNED BY GOVERNOR | | |
| | CHAPTER NUMBER 403 | | |
| | EFFECTIVE DATE: 04/28/97 | | |

HB 492 INTRODUCED BY HARPER, ET AL. *LC1214 DRAFTER: KURTZ*

PROHIBIT THE ISSUANCE OF A RETAIL LIQUOR LICENSE FOR A NEW ESTABLISHMENT WITHIN A 600-FOOT RADIUS OF A CHURCH, SYNAGOGUE, OR SCHOOL

| | | | |
|---|---|---|---|
| 2/07 | INTRODUCED | | |
| 2/07 | FIRST READING | | |
| 2/07 | REFERRED TO BUSINESS & LABOR | | |
| 2/13 | HEARING | | |
| 2/14 | COMMITTEE REPORT—BILL PASSED AS AMENDED | | |
| 2/17 | 2ND READING PASSED | 96 | 4 |
| 2/18 | 3RD READING PASSED | 95 | 4 |
| | TRANSMITTED TO SENATE | | |
| 2/19 | FIRST READING | | |
| 2/19 | REFERRED TO BUSINESS & INDUSTRY | | |
| 3/18 | HEARING | | |
| 3/21 | COMMITTEE REPORT—BILL CONCURRED | | |
| 3/28 | 2ND READING CONCUR MOTION FAILED | 20 | 26 |

HB 493 INTRODUCED BY KASTEN, ET AL. *LC0688 DRAFTER: LANE*

ESTABLISH THE JUDICIAL REDISTRICTING COMMISSION

| | |
|---|---|
| 2/07 | INTRODUCED |
| 2/07 | FIRST READING |
| 2/07 | REFERRED TO APPROPRIATIONS |
| 2/17 | HEARING |
| 3/11 | TABLED IN COMMITTEE |
| 3/28 | MISSED DEADLINE FOR 67TH DAY TRANSMITTAL |
| | DIED IN COMMITTEE |

# HOUSE EDUCATION



| BILL NO | REFERRED | HEARING | OTHER CONSIDERATION DATES | EXECUTIVE ACTION/DATE/VOTE | REREFERRED | DATE READ |
|---|---|---|---|---|---|---|
| HB0448 | KOTTEL, DEB<br>2/05 | 2/10 | FINGERPRINTING AND BACKGROUND CHECKS FOR SCHOOL PERSONNEL AND VOLUNTEERS | TABLED ON 02/17 VOTE: 18-0 | | |
| HB0449 | KOTTEL, DEB<br>2/05 | 2/10 | DISSEMINATE CRIMINAL HISTORY INFORMATION TO SCHOOLS UPON CONDITIONS | TABLED ON 02/17 VOTE: 18-0 | | |
| HB0487 | WHITEHEAD, BILL<br>2/07 | 2/12 | AUTHORIZE SCHOOL DISTRICTS TO ADOPT INDIAN EMPLOYMENT PREFERENCES | DO PASS 02/17 VOTE: 12-6 | | 2/18 |
| HB0490 | WHITEHEAD, BILL<br>2/07 | 2/12 | ENCOURAGE ALL PUBLIC SCHOOLS TO REQUIRE INDIAN STUDIES OF THEIR TEACHERS | TABLED ON 02/17 VOTE: 16-2 | | |
| HB0491 | REHBEIN, WILLIAM<br>2/07 | 2/12 | REVISE SCHOOL DISTRICT TERRITORY TRANSFER LAWS | DO PASS 02/17 VOTE: 18-0 | | 2/17 |
| HB0523 | MCCULLOCH, LINDA<br>2/11 | 2/14 | REVISING THE PENALTIES FOR SCHOOL TRANSPORTATION VIOLATIONS | DO PASS 02/19 VOTE: 18-0 | | 2/20 |
| HB0542 | PECK, RAY<br>2/13 | 2/17 | GENERALLY REVISING OUT-OF-COUNTY TUITION LAWS | PASS AS AMENDED 02/19 VOTE: 16-2 | | 2/20 |
| HB0552 | VICK, STEVE<br>2/14 | 2/17 | DUAL ENROLLMENT FOR NONPUBLIC SCHOOL STUDENTS | TABLED ON 02/17 VOTE:12-5 | | |
| HB0560 | PECK, RAY<br>2/14 | 2/17 | IMPLEMENT MORATORIUM OF CREATION OF SCHOOL DISTRICTS | PASS AS AMENDED 02/19 VOTE: 17-1 | | 2/20 |
| HB0563 | PECK, RAY<br>2/15 | 2/19 | ALLOW 4% INCREASE OF THE GREATER OF PREVIOUS GENERAL FUND OR PREVIOUS ANB | TABLED ON 02/19 VOTE: 11-7 | | |
| HB0564 | DOWELL, TIM<br>2/15 | 2/19 | ISSUE SHORT-TERM OBLIGATIONS TO PAY OUT-OF-DISTRICT TUITION COSTS | PASS AS AMENDED 02/19 VOTE: 14-4 | | 2/20 |
| HJ0008 | BRAINARD, MATT<br>1/23 | 1/27 | CONGRATULATE GRIZZLY FOOTBALL TEAMS | DO PASS 01/29 VOTE: 17-1 | | 1/30 |

House BILL NO. 491

INTRODUCED BY Rehberg Ekblad Ketterer Rea
Cassidy McCulloch John Johnson

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO THE TRANSFER OF TERRITORY FROM ONE SCHOOL DISTRICT TO ANOTHER; INCREASING THE FILING FEE TO $100; ALLOWING AN APPEAL TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION IN THE CASE OF AN ELEMENTARY DISTRICT TRANSFER; ELIMINATING THE DUTIES OF THE COUNTY COMMISSIONERS RELATING TO TRANSFERS; ELIMINATING THE VOTE OF THE PEOPLE IN THE CASE OF AN ELEMENTARY DISTRICT TRANSFER; CHANGING THE TIME LIMITATION FOR A BOUNDARY CHANGE FOR A HIGH SCHOOL DISTRICT; REQUIRING THAT A TRANSFER INVOLVING A K-12 DISTRICT MUST INCLUDE BOTH AN ELEMENTARY AND A HIGH SCHOOL TRANSFER; AND AMENDING SECTIONS 20-6-213, 20-6-314, 20-6-320, AND 20-6-703, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 20-6-213, MCA, is amended to read:

"**20-6-213. Transfer of territory from one elementary district to another.** (1) A majority of the registered electors of an elementary district who reside in territory that is a part of an elementary district may petition the county superintendent to transfer the territory in which they reside to another elementary district if:

(a) the territory to be transferred is contiguous to the district to which it is to be attached;

(b) the territory to be transferred is not located within 3 miles, over the shortest practical route, of an operating school of the district from which it is to be detached;

(c) the transfer of the territory will not reduce the taxable value of the district to less than $100,000 unless the remaining territory of the district will contain not less than 50,000 acres of nontaxable Indian land;

(d) the board of trustees of the school district that would receive the territory has approved the proposed transfer in writing ~~the transfer~~; and

(e) the territory proposed to be transferred to another elementary district has not been included in a petition filed under this section in the previous 3 years.

(2) The petition must be addressed to the county superintendent and must:

(a) provide a legal description of the territory that is requested to be transferred and a description of the elementary district to which it is to be transferred;

(b) state the reasons why the transfer is requested;

(c) state the number of elementary school-age children residing in the territory; and

(d) be accompanied by a ~~$50~~ $100 nonrefundable filing fee.

(3) A petition that meets the criteria specified in subsection (1) and that contains all the information required by subsection (2) is considered a valid petition. On receipt of a valid petition for a territory transfer, the county superintendent shall:

(a) file the petition;

(b) set a hearing place, date, and time for consideration of the petition that is not more than 40 days after receipt of the petition; and

(c) give notice of the place, date, and time of the hearing. The notices must be posted in the districts affected by the petition for the transfer of territory in the manner prescribed in this title for school elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered to the board of trustees of the school district from which the territory is to be transferred.

(4) The county superintendent shall conduct the hearing as scheduled in accordance with the rules of procedure adopted by the superintendent of public instruction pursuant to 20-3-107(3), and any resident, taxpayer, or representative of the affected districts must, upon request, be heard.

(5) Within 30 days after the hearing, the county superintendent shall, after considering the testimony and exhibits presented at the hearing, issue findings of fact, conclusions of law, and an order. The county superintendent shall grant or deny the requested transfer of territory. The decision must be based on the effects that the transfer would have on those residing in the territory proposed for transfer as well as those residing in the remaining territory of the elementary district.

(6) The decision of the county superintendent is final 30 days after its date unless it is appealed ~~to the board of county commissioners~~ to the superintendent of public instruction in accordance with 20-3-107 by a resident, taxpayer, or representative of ~~the~~ either elementary ~~districts~~ district affected by the petitioned territory transfer.

(7) The decision of the ~~board of county commissioners~~ superintendent of public instruction, after ~~a hearing on the matter and~~ consideration of the record from the county superintendent's hearing, is final

30 days after its date ~~unless prior to that time it has been contested through the filing of a valid petition to submit the question to a vote of the people in the elementary district from which the land is to be transferred. In order for a petition to be valid, the petition must be signed by 20% of the electors of the elementary district who are qualified to vote in elections for that district under 20-20-301. When a valid petition is submitted under this subsection, the question of whether the territory must be transferred to another district must be put before the voters at the next regular school election in the affected elementary district. The results of the vote must be the final decision on the petition for transfer of territory~~. The final order of the superintendent of public instruction is subject to judicial review under the Montana Administrative Procedure Act, Title 2, chapter 4.

(8) Whenever a petition to transfer territory from one elementary district to another elementary district creates a joint elementary district or affects the boundary of an existing joint elementary district, the petition to transfer territory must be presented to the county superintendent of the county where the territory is located. The county superintendent shall notify any other county superintendents of counties with elementary districts affected by the petition, and the duties prescribed in this section for the county superintendent ~~and the board of county commissioners~~ must be performed jointly ~~by the county officials~~. If the number of county superintendents involved is an even number, the county superintendents shall jointly appoint an additional county superintendent from an unaffected county to join them in conducting the hearing required in subsection (4) and issuing the decision required in subsection (5). The decision issued under subsection (5) must be made by a majority of the county superintendents.

(9) A petition seeking to transfer elementary territory out of or into a K-12 district must be accompanied by a petition to transfer the same territory as high school territory in accordance with 20-6-320. In the case of a proposed transfer out of or into a K-12 district, an elementary petition that is not accompanied by the high school petition is invalid for the purpose of subsection (3)."

**Section 2.** Section 20-6-314, MCA, is amended to read:

"**20-6-314. Time limitations for boundary changes.** ~~No~~ A high school district may not be created and ~~no~~ a high school district boundary may not be changed between the first day of ~~March~~ January and the second Monday of August of any calendar year except when:

(1) the entire territory of a high school district is annexed or attached to another high school district;

(2) the entire territory or portion of a joint high school district located in one county is annexed or attached to another high school district; or

(3) two or more districts are consolidated in their entirety."

**Section 3.** Section 20-6-320, MCA, is amended to read:

"**20-6-320. Transfer of territory from one high school district to another.** (1) A majority of registered electors of a high school district who reside in territory that is a part of a high school district may petition the county superintendent to transfer the territory in which they reside to another high school district if:

(a) the territory to be transferred is contiguous to the high school district to which it is to be attached;

(b) the territory to be transferred is not located within 3 miles, over the shortest practical route, of an operating school of the high school district from which it is to be detached;

(c) the transfer of the territory will not reduce the taxable value of the district to less than $300,000 unless the remaining territory of the high school district contains not less than 50,000 acres of nontaxable Indian land;

(d) the board of trustees of the school district that would receive the territory has approved the proposed transfer in writing ~~the transfer~~; and

(e) the territory proposed to be transferred to another high school district has not been included in a petition filed under this section in the previous 3 years.

(2) The petition must be addressed to the county superintendent and must:

(a) provide a legal description of the territory that is requested to be transferred and a description of the high school district to which it is to be transferred;

(b) state the reasons why the transfer is requested;

(c) state the number of high-school-age children residing in the territory; and

(d) be accompanied by a ~~$50~~ $100 nonrefundable filing fee.

(3) A petition that meets the criteria specified in subsection (1) and that contains all the information required by subsection (2) is a valid petition. On receipt of a valid petition for a territory transfer, the county superintendent shall:

(a) ~~present the petition to the board of county commissioners for certification that the criteria set~~

~~forth in subsection (1) have been met. The board shall, within 10 days of receiving the petition, return it to the county superintendent with certification, signed by a majority of the board, that the criteria have been met or with a notation, signed by a majority of the board, that the criteria have not been met. The board's certification is binding on the county superintendent unless the county superintendent believes that the certification is in error. A dispute between the board and the county superintendent on this issue must be decided by the superintendent of public instruction and the decision of the superintendent of public instruction on the matter is final.~~

~~(b)~~ file the petition; ~~as certified by the board of county commissioners.~~

~~(4) If the petition is certified or adjusted on appeal to the superintendent of public instruction to meet the criteria specified in subsection (1), the county superintendent shall:~~

~~(a)~~(b) set a hearing place, date, and time for consideration of the petition that is not more than 40 days after receipt of the petition; and

~~(b)~~(c) give notice of the place, date, and time of the hearing. The notices must be posted in the high school districts affected by the petition for the territory transfer in the manner prescribed in this title for school elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered to the board of trustees of the school district from which the territory is to be transferred.

~~(5)~~(4) The county superintendent shall conduct the hearing as scheduled in accordance with the rules of procedure adopted by the superintendent of public instruction pursuant to 20-3-107(3), and any resident, taxpayer, or representative of either affected high school district must be heard.

~~(6)~~(5) Within 30 days after the hearing, the county superintendent shall, after considering the testimony and exhibits presented at the hearing, issue findings of fact, conclusions of law, and an order. The county superintendent shall grant or deny the requested transfer of territory. The decision must be based on the effects that the transfer would have on those residing in the territory proposed for transfer as well as those residing in the remaining territory of the high school district.

~~(7)~~(6) The decision of the county superintendent is final 30 days after its date unless it is appealed pursuant to 20-3-107 to the superintendent of public instruction by a resident, taxpayer, or representative of either high school district affected by the petitioned territory transfer. The decision of the superintendent of public instruction, after consideration of the record from the county superintendent's hearing, is final 30 days after its date. The final order of the superintendent of public instruction is subject to judicial review pursuant to the Montana Administrative Procedure Act, Title 2, chapter 4.

~~(8)~~(7) If a petition to transfer territory from one high school district to another high school district would create a joint high school district or affect the boundary of any existing joint high school district, the petition must be presented to the county superintendent of the county where the territory proposed for transfer is located. The county superintendent shall notify any other county superintendents of counties with districts affected by the petition, and the duties prescribed in this section for the county superintendent must be performed jointly ~~by such county officials~~. If the number of county superintendents is an even number, the county superintendents shall jointly appoint a county superintendent from an unaffected county to join them in conducting the hearing required by subsection (4) and in issuing the decision required by subsection (5). The decision issued under subsection (5) must be made by a majority of the county superintendents.

(8) A petition seeking to transfer high school territory out of or into a K-12 district must be accompanied by a petition to transfer the same territory as elementary territory in accordance with 20-6-213. In the case of a proposed transfer out of or into a K-12 district, a high school petition that is not accompanied by an elementary petition is invalid for the purpose of subsection (3)."

**Section 4.** Section 20-6-703, MCA, is amended to read:

"**20-6-703. Transitions after formation of K-12 school district.** (1) When an attachment order for a K-12 school district becomes effective on July 1 under the provisions of 20-6-701:

(a) the ~~board of county commissioners~~ county superintendent shall order the trustees to execute all necessary and appropriate deeds, bills of sale, or other instruments for the conveyance of title to all real and personal property of the elementary district to the high school district;

(b) the trustees of the elementary district shall entrust the minutes of the board of trustees, the elementary district documents, and other records to the high school district to which it is attached; and

(c) the county treasurer shall transfer all end-of-the-year warrants and fund balances of the attached elementary district to the similar funds established for the K-12 school district in the high school district.

(2) All taxes levied by and revenue due from a previous school fiscal year to an elementary district attached to a high school district must be payable to the appropriate fund of the high school district.

(3) The previous year's general fund budget amounts for the elementary district and the high school district that form a K-12 school district must be combined to determine the budget limitation for the ensuing

school fiscal year pursuant to 20-9-308."

NEW SECTION. **Section 5. Boundary adjustments in high school districts.** The trustees of a high school district may, by resolution, request a change in the boundaries between their district and an adjacent district. The resolution must be addressed to the county superintendent of schools who, upon receiving a resolution, shall proceed as provided in 20-6-320.

NEW SECTION. **Section 6. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 20, chapter 6, part 3, and the provisions of Title 20, chapter 6, part 3, apply to [section 5].

-END-

# MINUTES

## MONTANA HOUSE OF REPRESENTATIVES
## 55th LEGISLATURE - REGULAR SESSION

## COMMITTEE ON EDUCATION

**Call to Order:** By **CHAIRMAN ALVIN A. ELLIS, JR.**, on February 12, 1997, at 3:00 P.M., in Room 312-1.

### ROLL CALL

**Members Present:**

Rep. Alvin A. Ellis, Jr., Chairman (R)
Rep. Peggy Arnott, Vice Chairman (Majority) (R)
Rep. Dan W. Harrington, Vice Chairman (Minority) (D)
Rep. Paul Bankhead (R)
Rep. Matt Denny (R)
Rep. Antoinette R. Hagener (D)
Rep. George Heavy Runner (D)
Rep. Sam Kitzenberg (R)
Rep. Bob Lawson (R)
Rep. Linda McCulloch (D)
Rep. Norm Mills (R)
Rep. William Rehbein, Jr. (R)
Rep. John "Sam" Rose (R)
Rep. Richard D. Simpkins (R)
Rep. Joe Tropila (D)
Rep. Allan Walters (R)

**Members Excused:** Rep. Kim Gillan
Rep. Gay Ann Masolo

**Members Absent:** None.

**Staff Present:** Connie Erickson, Legislative Services Division
Alberta Strachan, Committee Secretary

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 487 (2/7/97); HB 490 (2/7/97); HB 491 (2/7/97)
Executive Action: None.

### HEARING ON HB 487

Opening Statement by Sponsor: **REP. BILL WHITEHEAD**, H.D. 98 introduced the bill. **EXHIBIT 1, 2, 3.**
*{Tape: 1; Side: 1; Approx. Time Count: .8; Comments: Rep. Whitehead provided testimony from Arnold Jefferson, Director, Crow Tribal Education Department; Statistics For Local Area Schools; an article from Nation To Nation regarding The Affirmative Action Program Review and Tribal Courts Project.}*

Questions From Committee Members and Responses:
*{Tape: 1; Side: 2; Approx. Time Count: 40.5.}*

Closing by Sponsor: **REP. WHITEHEAD** closed on the bill.
*{Tape: 2; Side: 1; Approx. Time Count: 5.1.}*

## HEARING ON HB 491

Opening Statement by Sponsor: **REP. BILL REHBEIN**, H.D. 100 introduced the bill.
*{Tape: 2; Side: 1; Approx. Time Count: 6.3.}*

Proponents' Testimony:

**Don Waldron, Montana Rural Education Association.**
*{Tape: 2; Side: 1; Approx. Time Count: 7.3.}*

**Jeff Hindoin, Montana Rural Education Association.**
*{Tape: 2; Side: 1; Approx. Time Count: 8.0.}*

**Evan Jordan, Missoula resident.**
*{Tape: 2; Side: 1; Approx. Time Count: 12.1.}*

**Sue Stanley, Concerned Parents Association.**
*{Tape: 2; Side: 1; Approx. Time Count: 15.0.}*

**Gloria Paladichuk, Richland County resident.**
*{Tape: 2; Side: 1; Approx. Time Count: 16.7.}*

**Lance Melton, Montana School Boards Association.**
*{Tape: 2; Side: 1; Approx. Time Count: 17.0.}*

**Loren Frazier, Montana School Administrators Association.**
*{Tape: 2; Side: 1; Approx. Time Count: 17.3.}*

Opponents' Testimony: None.
*{Tape: 2; Side: 1; Approx. Time Count: 17.5.}*

Informational Testimony: None.

Questions From Committee Members and Responses:
*{Tape: 2; Side: 1; Approx. Time Count: 17.8.}*

Closing by Sponsor: **REP. REHBEIN** closed on the bill.
*{Tape: 2; Side: 1; Approx. Time Count: 32.2.}*

**CHAIRMAN ELLIS** distributed copies of a gray bill which was a combination of HB 49 and HB 198 and asked the Committee to question all parties involved in drafting this new legislation.

Discussion:
*{Tape: 2; Side: 1; Approx. Time Count: 33.7.}*

**ADJOURNMENT**

**Adjournment:** 6:10 P.M.

REP. ALVIN A. ELLIS, Jr., Chairman

ALBERTA STRACHAN, Secretary

AAE/ajs

# HOUSE OF REPRESENTATIVES

## COMMITTEE ON EDUCATION

ROLL CALL DATE 2-12-97

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| | | | |
| Rep. Alvin A. Ellis, Chairman | X | | |
| Rep. Peggy Arnott | X | | |
| Rep. Dan W. Harrington | X | | |
| Rep. Paul Bankhead | X | | |
| Rep. Matt Denny | X | | |
| Rep. Kim Gillan | | | X |
| Rep. Antoinette R. Hagener | X | | |
| Rep. George Heavy Runner | X | | |
| Rep. Sam Kitzenberg | X | | |
| Rep. Bob Lawson | X | | |
| Rep. Gay Ann Masolo | | | X |
| Rep. Linda McCulloch | X | | |
| Rep. Norm Mills | X | | |
| Rep. William Rehbein | X | | |
| Rep. John "Sam" Rose | X | | |
| Rep. Richard D. Simpkins | X | | |
| Rep. Joe Tropila | X | | |
| Rep. Allan Walters | X | | |
| | | | |
| | | | |

# MONTANA HOUSE OF REPRESENTATIVES
# HOUSE COMMITTEE ON EDUCATION
# VISITORS REGISTER

DATE 2-12-97

BILL NO. HB 491 SPONSOR(S)_____

**TYPE**
**PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)**

***PLEASE PRINT***

| PLEASE CIRCLE | NAME | ADDRESS | REPRESENTING |
|---|---|---|---|
| (P) O I | JEFF HINDOKEN | HELENA, MT | MREA |
| (P) O I | LANCE MELTON | HELENA | MSBA |
| (P) O I | Gloria Palachichuk | " | Richland Co. |
| (P) O I | RAYMOND PARKER | BILLINGS MT | |
| (P) O I | Wyman J. McDonald | O/A, | Off. of Gov. |
| (P) O I | DON WALDRON | Helena | MASBO MREA |
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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

# MINUTES

## MONTANA HOUSE OF REPRESENTATIVES
## 55th LEGISLATURE - REGULAR SESSION

## COMMITTEE ON EDUCATION

**Call to Order:** By **VICE-CHAIRMAN PEGGY ARNOTT**, on February 14, 1997, at 3:00 P.M., in Room 312-1.

### ROLL CALL

**Members Present:**

Rep. Alvin A. Ellis, Jr., Chairman (R)
Rep. Peggy Arnott, Vice Chairman (Majority) (R)
Rep. Dan W. Harrington, Vice Chairman (Minority) (D)
Rep. Paul Bankhead (R)
Rep. Matt Denny (R)
Rep. Kim Gillan (D)
Rep. Antoinette R. Hagener (D)
Rep. Sam Kitzenberg (R)
Rep. Bob Lawson (R)
Rep. Gay Ann Masolo (R)
Rep. Linda McCulloch (D)
Rep. Norm Mills (R)
Rep. William Rehbein, Jr. (R)
Rep. John "Sam" Rose (R)
Rep. Richard D. Simpkins (R)
Rep. Joe Tropila (D)
Rep. Allan Walters (R)

**Members Excused:** Rep. George Heavy Runner

**Members Absent:** None.

**Staff Present:** Connie Erickson, Legislative Services Division
Alberta Strachan, Committee Secretary

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HJR 21 (2/13/97); HJR 23 (2/13/97); HB 523 (2/12/97).
Executive Action: HJR 21; HJR 23; HB 49; HB 198; HB 436; HB 491; SB 71.

### HEARING ON HJR 21

Opening Statement by Sponsor: **REP. MATT DENNY**, H.D. 63 introduced the bill.
*{Tape: 1; Side: 1; Approx. Time Count: .2.}*

*{Tape: 2; Side: 1; Approx. Time Count: 14.1.}*

## EXECUTIVE ACTION ON HB 436

**Motion**: **REP. LAWSON MOVED HB 436 DO PASS.**
*{Tape: 2; Side: 1; Approx. Time Count: 14.3.}*

**Discussion**:
*{Tape: 2; Side: 1; Approx. Time Count: 15.0.}*

**Vote**: Question was called. Motion carried 14-4 on a roll call vote with **REP. HEAVY RUNNER** voting by proxy.
*{Tape: 2; Side: 1; Approx. Time Count: 17.0.}*

## EXECUTIVE ACTION ON HB 491

**Motion**: **REP. LAWSON MOVED HB 491 DO PASS.**
*{Tape: 2; Side: 1; Approx. Time Count: 18.7.}*

**Motion:** **REP. REHBEIN** moved to adopt the Rehbein amendments.
*{Tape: 2; Side: 1; Approx. Time Count: 18.7.}*

**Discussion**:
*{Tape: 2; Side: 1; Approx. Time Count: 19.8.}*

**Vote**: Question was called. Motion failed 1-17 with **REP. REHBEIN** voting no and **REP. HEAVY RUNNER** voting by proxy.
*{Tape: 2; Side: 1; Approx. Time Count: 20.2.}*

**Vote**: Question was called. Motion carried unanimously 18-0 with **REP. HEAVY RUNNER** voting by proxy.
*{Tape: 2; Side: 1; Approx. Time Count: 20.9.}*

## EXECUTIVE ACTION ON SB 71

**Motion**: **REP. KITZENBERG MOVED SB 71 BE CONCURRED IN.**
*{Tape: 2; Side: 1; Approx. Time Count: 21.3.}*

**Motion/Vote:** **REP. KITZENBERG** moved to adopt the Kitzenberg amendments. Question was called. Motion carried 17-1 with **REHBEIN** voting no and **REP. HEAVY RUNNER** voting by proxy.
*{Tape: 2; Side: 1; Approx. Time Count: 21.7.}*

**Vote**: Question was called. Motion carried 15-3 with **REPS. BANKHEAD, REHBEIN and ARNOTT** voting no and **REP. HEAVY RUNNER** voting by proxy.
*{Tape: 2; Side: 1; Approx. Time Count: 23.3.}*

# HOUSE OF REPRESENTATIVES

## COMMITTEE ON EDUCATION

ROLL CALL DATE 2-14-97

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| | | | |
| Rep. Alvin A. Ellis, Chairman | X | | |
| Rep. Peggy Arnott | X | | |
| Rep. Dan W. Harrington | X | | |
| Rep. Paul Bankhead | X | | |
| Rep. Matt Denny | X | | |
| Rep. Kim Gillan | X | | |
| Rep. Antoinette R. Hagener | X | | |
| Rep. George Heavy Runner | | | X |
| Rep. Sam Kitzenberg | X | | |
| Rep. Bob Lawson | X | | |
| Rep. Gay Ann Masolo | X | | |
| Rep. Linda McCulloch | X | | |
| Rep. Norm Mills | X | | |
| Rep. William Rehbein | X | | |
| Rep. John "Sam" Rose | X | | |
| Rep. Richard D. Simpkins | X | | |
| Rep. Joe Tropila | X | | |
| Rep. Allan Walters | X | | |
| | | | |
| | | | |

# HOUSE STANDING COMMITTEE REPORT

February 17, 1997



Mr. Speaker: We, the committee on **Education** report that **House Bill 491** (first reading copy -- white) **do pass.**

Signed: _____
*Alvin Ellis, Jr., Chair*

Committee Vote:
Yes 18, No 0.

371036SC.Hgd

# SENATE EDUCATION & CULTURAL RESOURCES

| BILL NO | REFERRED | HEARING | OTHER CONSIDERATION DATES | EXECUTIVE ACTION/DATE/VOTE | REREFERRED | DATE READ |
|---|---|---|---|---|---|---|
| HB0206 | MCCANN, MATT<br>1/31 | 2/10 | AUTHORIZE DISSOLUTION OF K-12 DISTRICT IF LOSS OF FEDERAL FUNDING RESULTS | CONCUR 02/14 VOTE: 10-0 | | 2/17 |
| HB0246 | SIMPKINS, DICK<br>3/03 | 3/21 | CLARIFYING DUTIES OF STATE & COUNTY SUPERINTENDENTS | TABLED ON 03/21 VOTE: 6-5 | | |
| HB0259 | HANSON, SONNY<br>1/31 | 2/12 | IMPLEMENT UNIFIED EDUCATION BUDGET AS CONTROL MECHANISM | TABLED ON 02/14 VOTE: 7-3 | | |
| HB0263 | DOWELL, TIM<br>1/31 | 3/07 | CLARIFYING LAWS RELATING TO BONDS FOR JOINT CONSTRUCTION OF SCHOOL FACILITY | CONCUR AS AMENDED 03/07 VOTE: 8-1 | | 3/10 |
| HB0282 | ANDERSON, SHIELL<br>2/11 | 3/10 | ELIMINATE MANDATORY APPROVAL FOR CHILD WITH SIBLING ENROLLED OUT-OF-DISTRICT | TABLED ON 03/26 VOTE: 6-2 | | |
| HB0314 | SIMPKINS, DICK<br>2/08 | 3/10 | ENCOURAGING A SCHOOL DISTRICT TO PROVIDE FIREARMS SAFETY EDUCATION | CONCUR 03/10 VOTE: 8-0 | | 3/11 |
| HB0347 | LAWSON, BOB<br>2/08 | 3/05 | EXCEPT DISTRICT OPENING NEW SCHOOL FROM 4% LIMIT IN GENERAL FUND BUDGET | TABLED ON 03/12 VOTE: 8-3 | | |
| HB0469 | BRAINARD, MATT<br>3/04 | 3/21 | REQUIRE SCHOOL LEVY AND FUNDING PROPS TO ELECTORS NO MORE THAN TWICE YEARLY | TABLED ON 03/24 VOTE: 6-5 | | |
| HB0470 | HEAVY RUNNER, GEORGE<br>2/19 | 3/12 | ALLOW BARGAINING AGREEMENTS TO PROVIDE CASH COMPENSATION FOR UNUSED LEAVE | CONCUR 03/12 VOTE: 11-0 | | 3/13 |
| HB0491 | REHBEIN, WILLIAM<br>3/04 | 3/14 | REVISE SCHOOL DISTRICT TERRITORY TRANSFER LAWS | CONCUR AS AMENDED 03/19 VOTE: 11-0 | | 3/20 |
| HB0523 | MCCULLOCH, LINDA<br>3/04 | 3/14 | CLARIFYING THE PENALTIES FOR SCHOOL TRANSPORTATION VIOLATIONS | CONCUR AS AMENDED 03/26 VOTE: 10-0 | | 3/27 |
| HB0542 | PECK, RAY<br>3/04 | 3/17 | GENERALLY REVISING OUT-OF-COUNTY TUITION LAWS | CONCUR AS AMENDED 03/24 VOTE: 9-2 | | 3/25 |

HOUSE BILL NO. 491

INTRODUCED BY REHBEIN, HERTEL, KITZENBERG, ROSE, COCCHIARELLA, MCCULLOCH, J. JOHNSON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO THE TRANSFER OF TERRITORY FROM ONE SCHOOL DISTRICT TO ANOTHER; INCREASING THE FILING FEE TO $100; ALLOWING AN APPEAL TO THE ~~SUPERINTENDENT OF PUBLIC INSTRUCTION IN THE CASE OF AN ELEMENTARY~~ DISTRICT COURT CONCERNING A TRANSFER; ELIMINATING THE DUTIES OF THE COUNTY COMMISSIONERS RELATING TO TRANSFERS; ELIMINATING THE VOTE OF THE PEOPLE IN THE CASE OF AN ELEMENTARY DISTRICT TRANSFER; CHANGING THE TIME LIMITATION FOR A BOUNDARY CHANGE FOR A HIGH SCHOOL DISTRICT; REQUIRING THAT A TRANSFER INVOLVING A K-12 DISTRICT MUST INCLUDE BOTH AN ELEMENTARY AND A HIGH SCHOOL TRANSFER; AND AMENDING SECTIONS 20-6-213, 20-6-314, 20-6-320, AND 20-6-703, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 20-6-213, MCA, is amended to read:

"**20-6-213. Transfer of territory from one elementary district to another.** (1) A majority of the registered electors of an elementary district who reside in territory that is a part of an elementary district may petition the county superintendent to transfer the territory in which they reside to another elementary district if:

(a) the territory to be transferred is contiguous to the district to which it is to be attached;

(b) the territory to be transferred is not located within 3 miles, over the shortest practical route, of an operating school of the district from which it is to be detached;

(c) the transfer of the territory will not reduce the taxable value of the district to less than $100,000 unless the remaining territory of the district will contain not less than 50,000 acres of nontaxable Indian land;

(d) the board of trustees of the school district that would receive the territory has approved the proposed transfer in writing ~~the transfer~~; and

(e) the territory proposed to be transferred to another elementary district has not been included in

a petition filed under this section in the previous 3 years.

(2) The petition must be addressed to the county superintendent and must:

(a) provide a legal description of the territory that is requested to be transferred and a description of the elementary district to which it is to be transferred;

(b) state the reasons why the transfer is requested;

(c) state the number of elementary school-age children residing in the territory; and

(d) be accompanied by a ~~$50~~ $100 nonrefundable filing fee.

(3) A petition that meets the criteria specified in subsection (1) and that contains all the information required by subsection (2) is considered a valid petition. On receipt of a valid petition for a territory transfer, the county superintendent shall:

(a) file the petition;

(b) set a hearing place, date, and time for consideration of the petition that is not more than 40 days after receipt of the petition; and

(c) give notice of the place, date, and time of the hearing. The notices must be posted in the districts affected by the petition for the transfer of territory in the manner prescribed in this title for school elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered to the board of trustees of the school district from which the territory is to be transferred.

(4) The county superintendent shall conduct the hearing as scheduled in accordance with the rules of procedure adopted by the superintendent of public instruction pursuant to 20-3-107(3), and any resident, taxpayer, or representative of the affected districts must, upon request, be heard.

(5) Within 30 days after the hearing, the county superintendent shall, after considering the testimony and exhibits presented at the hearing, issue findings of fact, conclusions of law, and an order. The county superintendent shall grant or deny the requested transfer of territory. The decision must be based on the effects that the transfer would have on those residing in the territory proposed for transfer as well as those residing in the remaining territory of the elementary district.

(6) The decision of the county superintendent is final 30 days after its date unless it is appealed ~~to the board of county commissioners~~ to the ~~superintendent of public instruction in accordance with 20-3-107~~ DISTRICT COURT by a resident, taxpayer, or representative of ~~the~~ either elementary ~~districts~~ district affected by the petitioned territory transfer.

~~(7) The decision of the board of county commissioners superintendent of public instruction, after~~

~~a hearing on the matter and consideration of the record from the county superintendent's hearing, is final 30 days after its date unless prior to that time it has been contested through the filing of a valid petition to submit the question to a vote of the people in the elementary district from which the land is to be transferred. In order for a petition to be valid, the petition must be signed by 20% of the electors of the elementary district who are qualified to vote in elections for that district under 20-20-301. When a valid petition is submitted under this subsection, the question of whether the territory must be transferred to another district must be put before the voters at the next regular school election in the affected elementary district. The results of the vote must be the final decision on the petition for transfer of territory. The final order of the superintendent of public instruction is subject to judicial review under the Montana Administrative Procedure Act, Title 2, chapter 4.~~

~~(8)~~(7) Whenever a petition to transfer territory from one elementary district to another elementary district creates a joint elementary district or affects the boundary of an existing joint elementary district, the petition to transfer territory must be presented to the county superintendent of the county where the territory is located. The county superintendent shall notify any other county superintendents of counties with elementary districts affected by the petition, and the duties prescribed in this section for the county superintendent ~~and the board of county commissioners~~ must be performed jointly ~~by the county officials~~. If the number of county superintendents involved is an even number, the county superintendents shall jointly appoint an additional county superintendent from an unaffected county to join them in conducting the hearing required in subsection (4) and issuing the decision required in subsection (5). The decision issued under subsection (5) must be made by a majority of the county superintendents.

~~(9)~~(8) A petition seeking to transfer elementary territory out of or into a K-12 district must be accompanied by a petition to transfer the same territory as high school territory in accordance with 20-6-320. In the case of a proposed transfer out of or into a K-12 district, an elementary petition that is not accompanied by the high school petition is invalid for the purpose of subsection (3)."

**Section 2.** Section 20-6-314, MCA, is amended to read:

"**20-6-314. Time limitations for boundary changes.** ~~No~~ A high school district may not be created and ~~no~~ a high school district boundary may not be changed between the first day of ~~March~~ January and the second Monday of August of any calendar year except when:

(1) the entire territory of a high school district is annexed or attached to another high school

district;

(2) the entire territory or portion of a joint high school district located in one county is annexed or attached to another high school district; or

(3) two or more districts are consolidated in their entirety."

**Section 3.** Section 20-6-320, MCA, is amended to read:

"**20-6-320. Transfer of territory from one high school district to another.** (1) A majority of registered electors of a high school district who reside in territory that is a part of a high school district may petition the county superintendent to transfer the territory in which they reside to another high school district if:

(a) the territory to be transferred is contiguous to the high school district to which it is to be attached;

(b) the territory to be transferred is not located within 3 miles, over the shortest practical route, of an operating school of the high school district from which it is to be detached;

(c) the transfer of the territory will not reduce the taxable value of the district to less than $300,000 unless the remaining territory of the high school district contains not less than 50,000 acres of nontaxable Indian land;

(d) the board of trustees of the school district that would receive the territory has approved the proposed transfer in writing ~~the transfer~~; and

(e) the territory proposed to be transferred to another high school district has not been included in a petition filed under this section in the previous 3 years.

(2) The petition must be addressed to the county superintendent and must:

(a) provide a legal description of the territory that is requested to be transferred and a description of the high school district to which it is to be transferred;

(b) state the reasons why the transfer is requested;

(c) state the number of high-school-age children residing in the territory; and

(d) be accompanied by a ~~$50~~ $100 nonrefundable filing fee.

(3) A petition that meets the criteria specified in subsection (1) and that contains all the information required by subsection (2) is a valid petition. On receipt of a valid petition for a territory transfer, the county superintendent shall:

(a) ~~present the petition to the board of county commissioners for certification that the criteria set forth in subsection (1) have been met. The board shall, within 10 days of receiving the petition, return it to the county superintendent with certification, signed by a majority of the board, that the criteria have been met or with a notation, signed by a majority of the board, that the criteria have not been met. The board's certification is binding on the county superintendent unless the county superintendent believes that the certification is in error. A dispute between the board and the county superintendent on this issue must be decided by the superintendent of public instruction and the decision of the superintendent of public instruction on the matter is final.~~

~~(b)~~ file the petition; ~~as certified by the board of county commissioners.~~

~~(4) If the petition is certified or adjusted on appeal to the superintendent of public instruction to meet the criteria specified in subsection (1), the county superintendent shall:~~

~~(a)~~(b) set a hearing place, date, and time for consideration of the petition that is not more than 40 days after receipt of the petition; and

~~(b)~~(c) give notice of the place, date, and time of the hearing. The notices must be posted in the high school districts affected by the petition for the territory transfer in the manner prescribed in this title for school elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered to the board of trustees of the school district from which the territory is to be transferred.

~~(5)~~(4) The county superintendent shall conduct the hearing as scheduled in accordance with the rules of procedure adopted by the superintendent of public instruction pursuant to 20-3-107(3), and any resident, taxpayer, or representative of either affected high school district must be heard.

~~(6)~~(5) Within 30 days after the hearing, the county superintendent shall, after considering the testimony and exhibits presented at the hearing, issue findings of fact, conclusions of law, and an order. The county superintendent shall grant or deny the requested transfer of territory. The decision must be based on the effects that the transfer would have on those residing in the territory proposed for transfer as well as those residing in the remaining territory of the high school district.

~~(7)~~(6) The decision of the county superintendent is final 30 days after its date unless it is appealed ~~pursuant to 20-3-107~~ to the ~~superintendent of public instruction~~ DISTRICT COURT by a resident, taxpayer, or representative of either high school district affected by the petitioned territory transfer. ~~The decision of the superintendent of public instruction, after consideration of the record from the county superintendent's hearing, is final 30 days after its date. The final order of the superintendent of public instruction is subject~~

~~to judicial review pursuant to the Montana Administrative Procedure Act, Title 2, chapter 4.~~

~~(8)~~(7) If a petition to transfer territory from one high school district to another high school district would create a joint high school district or affect the boundary of any existing joint high school district, the petition must be presented to the county superintendent of the county where the territory proposed for transfer is located. The county superintendent shall notify any other county superintendents of counties with districts affected by the petition, and the duties prescribed in this section for the county superintendent must be performed jointly ~~by such county officials~~. If the number of county superintendents is an even number, the county superintendents shall jointly appoint a county superintendent from an unaffected county to join them in conducting the hearing required by subsection (4) and in issuing the decision required by subsection (5). The decision issued under subsection (5) must be made by a majority of the county superintendents.

(8) A petition seeking to transfer high school territory out of or into a K-12 district must be accompanied by a petition to transfer the same territory as elementary territory in accordance with 20-6-213. In the case of a proposed transfer out of or into a K-12 district, a high school petition that is not accompanied by an elementary petition is invalid for the purpose of subsection (3)."

**Section 4.** Section 20-6-703, MCA, is amended to read:

"**20-6-703. Transitions after formation of K-12 school district.** (1) When an attachment order for a K-12 school district becomes effective on July 1 under the provisions of 20-6-701:

(a) the ~~board of county commissioners~~ county superintendent shall order the trustees to execute all necessary and appropriate deeds, bills of sale, or other instruments for the conveyance of title to all real and personal property of the elementary district to the high school district;

(b) the trustees of the elementary district shall entrust the minutes of the board of trustees, the elementary district documents, and other records to the high school district to which it is attached; and

(c) the county treasurer shall transfer all end-of-the-year warrants and fund balances of the attached elementary district to the similar funds established for the K-12 school district in the high school district.

(2) All taxes levied by and revenue due from a previous school fiscal year to an elementary district attached to a high school district must be payable to the appropriate fund of the high school district.

(3) The previous year's general fund budget amounts for the elementary district and the high school

district that form a K-12 school district must be combined to determine the budget limitation for the ensuing school fiscal year pursuant to 20-9-308."

NEW SECTION. **Section 5. Boundary adjustments in high school districts.** The trustees of a high school district may, by resolution, request a change in the boundaries between their district and an adjacent district. The resolution must be addressed to the county superintendent of schools who, upon receiving a resolution, shall proceed as provided in 20-6-320.

NEW SECTION. **Section 6. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 20, chapter 6, part 3, and the provisions of Title 20, chapter 6, part 3, apply to [section 5].

-END-

# MINUTES

## MONTANA SENATE
## 55th LEGISLATURE - REGULAR SESSION

## COMMITTEE ON EDUCATION & CULTURAL RESOURCES

**Call to Order:** By **CHAIRMAN DARYL TOEWS**, on March 14, 1997, at 3:40 p.m., in Room 402.

### ROLL CALL

**Members Present:**

Sen. Daryl Toews, Chairman (R)
Sen. C.A. Casey Emerson, Vice Chairman (R)
Sen. Debbie Bowman Shea (D)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Wm. E. "Bill" Glaser (R)
Sen. John R. Hertel (R)
Sen. Loren Jenkins (R)
Sen. Mike Sprague (R)
Sen. Barry "Spook" Stang (D)
Sen. Mignon Waterman (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Eddye McClure, Legislative Services Division
Janice Soft, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**
Hearing(s) & Date(s) Posted: HB 523, HB 491; Posted 3/7/97
Executive Action: None

### HEARING ON HB 523

**Sponsor:** **REP. LINDA MCCULLOCH, HD 70, Missoula**

**Proponents:** **Rachel Vielleux, Missoula County Superintendent of Schools**
**Don Waldron, Montana Association of County Superintendents and Montana Rural Education Association**

**Opponents:** **None**

Closing by Sponsor:

**REP. LINDA MCCULLOCH** said she wanted to recap HB 523 did nothing but eliminate the double transportation reimbursement by the county and state for the same bus route.

*{Tape: 1; Side: A; Approx. Time Count: 4:15 p.m.}*

HEARING ON HB 491

Sponsor: **REP. BILL REHBEIN, HD 100, Lambert**

Proponents: **Don Waldron, Montana Association of County Superintendents and Montana Rural Education Association**
**Jeff Hindoien, Montana Rural Education Association**
**Evan Jordan, Private Citizen**
**Susan Stanley, Private Citizen**
**Rachel Vielleux, Whitlash Residents**

Opponents: None

Opening Statement by Sponsor:

**REP. BILL REHBEIN, HD 100, Lambert,** said the purpose of HB 491 was to get some continuity in the law regarding the transfer of territory between high school and elementary districts. He stated current law said the majority of electors who resided in an elementary district would petition the county superintendent to transfer the property. The county superintendent would then verify the criteria had been met for the transfer, would conduct a hearing and then within 30 days would make a decision to grant or deny the transfer. That decision could be appealed to the county commissioners by residents or taxpayers of either of the affected elementary districts; however, their decision was final unless 20% of the electors of the district from the territory which was to be transferred petitioned for a vote; the results of which would be final. **REP. REHBEIN** explained the law for a high school district was basically the same, with the major differences being the dispute could be appealed to the state superintendent, and from there it could be appealed to district court; however, that decision would be final.

**REP. REHBEIN** explained HB 491 was about problems regarding property transfer in both elementary and high school districts; the solution process was to go to the county superintendent and then to District Court -- OPI and the county commissioners were removed from the loop.

Proponents' Testimony:

**Don Waldron, Montana Association of County Superintendents** and **Montana Rural Education Association (MREA),** said he would not say

anything but wanted the Committee to know superintendents, district residents and MREA's legal counsel would testify.

**Jeff Hindoien, General Counsel for Montana Rural Education Association,** said the entire purpose of HB 491 was to make the transfer of territory the same for an elementary district as for a high school district. He stressed this was not annexation, which involved moving an entire district into another; rather, it involved moving pieces from one district to another. He explained current law as did **REP. REHBEIN**; however, **Mr. Hindoien** also referred to: (1) Page 3, Lines 17-20 -- a third superintendent would be allowed to join the decision-making process, thus ensuring a majority decision; (2) Page 3, Lines 21-24 -- if territory was taken from a K-12 district, both elementary and high school territories had to be included so if the transfer went through, the district could continue to operate under the K-12 structure (coterminus boundaries).

**Evan Jordan, Resident of Nine Mile Valley,** said since 1992, his district had been engaged in its most recent attempt to transfer territory (Upper Nine Mile Valley) from the Alberton School District to the Frenchtown School District; however, it still had not been accomplished because of the current law. He stated this was the sixth attempt during the past 40 years and gave the Committee an historical overview of the process.

*{Tape: 1; Side: B; Approx. Time Count: 4:30 p.m.}*

**Susan Stanley, Resident of Nine Mile Valley,** said she had been involved in the process for about eight years and said the current process gave no hope for resolution of their efforts because a split vote was a "no" vote so there was no way to progress. **Ms. Stanley** said the Valley in its entirety was a very strong community -- families shared the same community center, fire department, community council, etc., and were all members of Missoula County. She said students were now attending school in Frenchtown with tuition waivers but the process was still hung up; all involved wanted to see a resolution. She proclaimed HB 491 simplified the process and gave a chance for a logical conclusion.

**Rachel Vielleux, Whitlash Residents in Toole County,** said they could not testify in person because of bad weather and calves on the prairie. These people attended school in Sunburst but preferred to attend school in Whitlash and to be part of that district; however, without a territory transfer it would not be possible. **Ms. Vielleux** said these people were very much in support of HB 491.

Opponents' Testimony: None.

*{Tape: 1; Side: B; Approx. Time Count: 4:34 p.m.}*

Questions From Committee Members and Responses:

**SEN. DELWYN GAGE** referred to Page 2, Lines 23-25, and asked about the person in the receiving district whose input meant nothing. **Jeff Hindoien** said the conduct of the hearing was governed by Subsection (4). **SEN. GAGE** commented the appeal had to go to District Court and **Mr. Hindoien** agreed, explaining when OPI presently conducted a review of a county superintendent hearing of territory transfer under Administrative Procedures Act in Title 20, they conducted it under the identical standard of review District Courts subsequently looked at; therefore, one level was removed from the administrative process. **SEN. TOEWS** told **SEN. GAGE** part of the answer was on Page 1, Line 28.

**SEN. GAGE** asked about the taxpayers who didn't agree with what the trustees did; even though they would be heard at the hearing, they would not be involved in the decision. **Jeff Hindoien** said there was no consideration of the impact on the residents of the receiving district; however, they were getting a broader tax base.

**SEN. CASEY EMERSON** asked about the vote of the people. **Mr. Hindoien** said on the elementary side the vote process was the same as at present; however, if people didn't like the county commissioners' decision, a petition signed by a majority of the people in the transfer territory could be presented which meant the issue would be submitted for a vote by the entire district which was losing the property. At that time the law also said the only considerations to be made were of the people of the territory to be moved; however, that was changed in 1991 to include those who were left behind. He said the effect of changing the language on the election was only 20%, not a majority, of the electors was necessary; therefore, suddenly the electors in the transfer territory were not responsible for coming up with the petition -- it was the voters district-wide. **Mr. Hindoien** said the only way it would have been put to a vote was if a majority in the territory didn't like the decision they got.

He further explained sometimes the vote process of everyone's interest may not protected because the people were a minority; if there would be a process of conducting two expensive hearings which resulted in sending it back to a vote, there would be a question of which way the process should be handled.

*{Tape: 1; Side: B; Approx. Time Count: 4:42 p.m.}*

Closing by Sponsor:

**REP. BILL REHBEIN** said since 1995, six such cases had been referred to OPI who usually took about nine to ten months to reach a decision. He said he hoped the Committee would pass HB 491 as it was written; however, he might be acceptable to

friendly amendments. He said he had nobody to carry the bill so it would be fine if the Committee members would find someone.

## ADJOURNMENT

**Adjournment:** The meeting adjourned at 4:45 p.m.

SEN. DARYL TOEWS, Chairman

JANICE SOFT, Secretary

DT/JS

MONTANA SENATE
1997 LEGISLATURE
EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL DATE 3/14/97

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| SEN. STEVE DOHERTY | ✓ | | |
| SEN. DELWYN GAGE | ✓ | | |
| SEN. BILL GLASER | ✓ | | |
| SEN. JOHN HERTEL | ✓ | | |
| SEN. LOREN JENKINS | ✓ | | |
| SEN. DEBBIE SHEA | ✓ | | |
| SEN. MIKE SPRAGUE | ✓ | | |
| SEN. BARRY "SPOOK" STANG | ✓ | | |
| SEN. MIGNON WATERMAN | ✓ | | |
| SEN. CASEY EMERSON, VICE CHAIRMAN | ✓ | | |
| SEN. DARYL TOEWS, CHAIRMAN | ✓ | | |
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DATE 3/14/97

SENATE COMMITTEE ON Senate Education

BILLS BEING HEARD TODAY: HB 523, HB 491

< ■ > PLEASE PRINT < ■ >

Check One

| Name | Representing | Bill No. | Support | Oppose |
|---|---|---|---|---|
| Don Waldron | Mt. City Supt Assn & MREA MACSS | 523 491 | ✓ ✓ | |
| Evan Jordan | 9-Mile Valley | 491 | ✓ | |
| Sue Stanley | 9 Mile Valley | 491 | ✓ | |
| Rob Smith | DOJ | 523 | | |
| Jeff Hindoien | MREA | 491 | ✓ | |
| Rachel Vielleux | County Supt of Schools | 523 491 | ✓ ✓ | |
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

# MINUTES

## MONTANA SENATE
## 55th LEGISLATURE - REGULAR SESSION

## COMMITTEE ON EDUCATION & CULTURAL RESOURCES

**Call to Order:** By **CHAIRMAN DARYL TOEWS**, on March 17, 1997, at 3:07 p.m., in Room 325.

### ROLL CALL

**Members Present:**
Sen. Daryl Toews, Chairman (R)
Sen. C.A. Casey Emerson, Vice Chairman (R)
Sen. Debbie Bowman Shea (D)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Wm. E. "Bill" Glaser (R)
Sen. John R. Hertel (R)
Sen. Loren Jenkins (R)
Sen. Mike Sprague (R)
Sen. Barry "Spook" Stang (D)
Sen. Mignon Waterman (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Eddye McClure, Legislative Services Division
Janice Soft, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**
Hearing(s) & Date(s) Posted: HB 560, HB 542; Posted 3/7/97
Executive Action: None

### HEARING ON HB 560

**Sponsor:** **REP. RAY PECK, HD 91, Havre**

**Proponents:** **None**

**Opponents:** **None**

**Opening Statement by Sponsor:**

**REP. RAY PECK, HD 91, Havre,** said HB 560 came out of a concern regarding the rising of the reappraisal figures by 42%. He said

costs. **SEN. FOSTER** said "fairness" was a difficult area to pin down; however, in this case the taxpayers of North Jefferson County paid their taxes but were allocated a higher percentage of the share than some other areas of the state. He maintained 30 other counties received funds for the out-of-county tuition. He suggested if HB 542 passed, the legislature would be saying it didn't like people living in North Jefferson County because of what happened to the school policy issues.

**SEN. JOHN HERTEL** said he picked out three large concerns from the testimony: (1) Students had only one or two years left in their present school; (2) Students would have to ride many miles on the bus; (3) Schools would be affected by the influx of students. He wondered if the effective date could be changed to 2001, or at least 1999, so those issues could be addressed. **REP. RAY PECK** said all the testimony was based on disinformation; in fact, there was no basis to think those concerns would happen because Helena Public Schools would not say they wouldn't accept those students, nor would the local districts say they would not pay the tuition because it would be cheaper to let the students go to Helena than to provide the education and transportation for them.

**SEN. HERTEL** repeated his question of changing the effective date. **REP. PECK** said **REP. DUANE GRIMES** had asked that on the House floor and his response was he would like to think about it because if something was unfair and illegal, he didn't know if it should be postponed a couple of years. **REP. PECK** said if the amendment were made, it would have to return to the House for settlement. The Senate had the authority to change the date, but the House voted 68-32 it didn't want to change the effective date. He said as the sponsor, he felt he committed to do what the House did.

**SEN. BILL GLASER** asked for a break-down of where the money was coming from and going to. **Madalyn Quinlan, OPI,** said OPI had information of numbers of students going from one county to the other and the amount of money deducted from the County Equalization Fund; however, they didn't have that information on a district-by-district basis.

**SEN. DEBBIE SHEA** asked how HB 491 (transfer of territory from one district to another) would tie in with HB 542. **REP. PECK** said it didn't apply.

**SEN. LOREN JENKINS** asked if the 30 counties paid more in than they received back from the state. **Madalyn Quinlan** said there was only one county who paid more in than the 55 mills they got back, and that was Rosebud County.

**SEN. JENKINS** asked if other counties, under equalization, received more state aid than they paid in. **Ms. Quinlan** said each county received more back through various General Fund taxes than they paid in under the 55-mill levy. She said property taxes

MONTANA SENATE
1997 LEGISLATURE
EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL DATE 3/17/97

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| SEN. STEVE DOHERTY | ✓ | | |
| SEN. DELWYN GAGE | ✓ | | |
| SEN. BILL GLASER | ✓ | | |
| SEN. JOHN HERTEL | ✓ | | |
| SEN. LOREN JENKINS | ✓ | | |
| SEN. DEBBIE SHEA | ✓ | | |
| SEN. MIKE SPRAGUE | ✓ | | |
| SEN. BARRY "SPOOK" STANG | ✓ | | |
| SEN. MIGNON WATERMAN | ✓ | | |
| SEN. CASEY EMERSON, VICE CHAIRMAN | ✓ | | |
| SEN. DARYL TOEWS, CHAIRMAN | ✓ | | |
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# MINUTES

## MONTANA SENATE
## 55th LEGISLATURE - REGULAR SESSION

## COMMITTEE ON EDUCATION & CULTURAL RESOURCES

**Call to Order:** By **CHAIRMAN DARYL TOEWS**, on March 19, 1997, at 3:13 p.m., in Room 402.

### ROLL CALL

**Members Present:**

Sen. Daryl Toews, Chairman (R)
Sen. C.A. Casey Emerson, Vice Chairman (R)
Sen. Debbie Bowman Shea (D)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Wm. E. "Bill" Glaser (R)
Sen. John R. Hertel (R)
Sen. Loren Jenkins (R)
Sen. Mike Sprague (R)
Sen. Barry "Spook" Stang (D)
Sen. Mignon Waterman (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Eddye McClure, Legislative Services Division
Janice Soft, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**
Hearing(s) & Date(s) Posted: HB 49; Posted 3/7/97
Executive Action: HB 49, HB 560, HB 491

### HEARING ON HB 49

**Sponsor:** REP. ALVIN ELLIS, JR., HD 23, Red Lodge

**Proponents:** Lance Melton, Montana School Boards Association
Don Waldron, Montana Rural Education Association
Loran Frazier, School Administrators of Montana
Eric Feaver, Montana Education Association
Terry Minow, Montana Federation of Teachers
Erik Hanson, Governor's Office

**Opponents:** None

didn't believe there were any grounds for concluding the bargaining units would try to delay contract resolution until July 1, 1997.

Motion: **SEN. MIGNON WATERMAN MOVED HB 49 AS AMENDED BE CONCURRED IN.**

Discussion: **SEN. BILL GLASER** commented he had been sitting in Education Committee meetings since 1985 and he was amazed at the maturity, professionalism and statesmanship of the industry.

**SEN. DELWYN GAGE** commented the legislature could take a lesson from that.

**SEN. BARRY "SPOOK" STANG** suggested there were opponents to HB 49 who weren't there because he had gotten calls regarding the bill; therefore, he wouldn't categorize HB 49 as the deal because he felt the deal was made up here among the powers-to-be -- the "little people" probably didn't know it was made.

**SEN. GLASER** said he was the only vote his people had; therefore, he planned to be a statesman. He again expressed commendation to those who crafted HB 49.

Vote: **Motion HB 49 AS AMENDED BE CONCURRED IN CARRIED 10-1 WITH SEN. DEBBIE SHEA VOTING NO. SEN. DARYL TOEWS** will carry HB 49.

## EXECUTIVE ACTION ON HB 560

Motion/Vote: **SEN. BARRY "SPOOK" STANG MOVED HB 560 BE CONCURRED IN. Motion CARRIED 10-1 WITH SEN. LOREN JENKINS VOTING NO. SEN. BARRY "SPOOK" STANG** will carry HB 560.

## EXECUTIVE ACTION ON HB 491

Motion: **SEN. BARRY "SPOOK" STANG MOVED HB 491 BE CONCURRED IN.**

Discussion: **SEN. STANG** commented he had been involved in this dispute for years because it was in the middle of his district. He referred to the testimony and said it was absolutely true -- the present system allowed no resolution; however, HB 491 would allow resolution.

**SEN. DARYL TOEWS** said he agreed it was a crummy system because no resolution could ever be reached.

**SEN. DELWYN GAGE** said he had talked to the people involved with HB 491 and asked them if they would like a "Passage and Approval" date to be added. Those people said they wanted to pursue this as soon as possible; therefore, they wanted the date.

Motion/Vote: **SEN. DELWYN GAGE MOVED DO PASS ON AMENDMENTS HB049101.AEM (EXHIBIT 3). Motion CARRIED UNANIMOUSLY 11-0.**

Motion/Vote: **SEN. BARRY "SPOOK" STANG MOVED HB 491 AS AMENDED BE CONCURRED IN. Motion CARRIED UNANIMOUSLY 11-0. SEN. BARRY "SPOOK" STANG** will carry HB 491.

MONTANA SENATE
1997 LEGISLATURE
EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL DATE 3/19/97

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---|---|---|
| SEN. STEVE DOHERTY | ✓ | | |
| SEN. DELWYN GAGE | ✓ | | |
| SEN. BILL GLASER | ✓ | | |
| SEN. JOHN HERTEL | ✓ | | |
| SEN. LOREN JENKINS | ✓ | | |
| SEN. DEBBIE SHEA | ✓ | | |
| SEN. MIKE SPRAGUE | ✓ | | |
| SEN. BARRY "SPOOK" STANG | ✓ | | |
| SEN. MIGNON WATERMAN | ✓ | | |
| SEN. CASEY EMERSON, VICE CHAIRMAN | ✓ | | |
| SEN. DARYL TOEWS, CHAIRMAN | ✓ | | |
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SENATE EDUCATION
EXHIBIT NO. 3
DATE 3/19/97
BILL NO. HB 491

Amendments to House Bill No. 491
Third Reading Copy

For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure
March 19, 1997

1. Title, line 12.
Following: ";"
Strike: "AND"

2. Title, line 13.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 7.
Following: line 11
Insert: "NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval."

# SENATE STANDING COMMITTEE REPORT


March 20, 1997

MR. PRESIDENT:
We, your committee on Education and Cultural Resources having had under consideration House Bill 491 (third reading copy -- blue), respectfully report that House Bill 491 be amended as follows and as so amended be concurred in.

Signed: _____
Senator Daryl Toews, Chair

That such amendments read:

1. Title, line 12.
Following: ";"
Strike: "AND"

2. Title, line 13.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 7.
Following: line 11
Insert: "NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval."

-END-

Amd. Coord.
Sec. of Senate

Sen. "Spook" Stang
Senator Carrying Bill

610819SC.STS

HOUSE BILL NO. 491

INTRODUCED BY REHBEIN, HERTEL, KITZENBERG, ROSE, COCCHIARELLA, MCCULLOCH, J. JOHNSON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO THE TRANSFER OF TERRITORY FROM ONE SCHOOL DISTRICT TO ANOTHER; INCREASING THE FILING FEE TO $100; ALLOWING AN APPEAL TO THE ~~SUPERINTENDENT OF PUBLIC INSTRUCTION IN THE CASE OF AN ELEMENTARY~~ DISTRICT COURT CONCERNING A TRANSFER; ELIMINATING THE DUTIES OF THE COUNTY COMMISSIONERS RELATING TO TRANSFERS; ELIMINATING THE VOTE OF THE PEOPLE IN THE CASE OF AN ELEMENTARY DISTRICT TRANSFER; CHANGING THE TIME LIMITATION FOR A BOUNDARY CHANGE FOR A HIGH SCHOOL DISTRICT; REQUIRING THAT A TRANSFER INVOLVING A K-12 DISTRICT MUST INCLUDE BOTH AN ELEMENTARY AND A HIGH SCHOOL TRANSFER; ~~AND~~ AMENDING SECTIONS 20-6-213, 20-6-314, 20-6-320, AND 20-6-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 20-6-213, MCA, is amended to read:

"**20-6-213. Transfer of territory from one elementary district to another.** (1) A majority of the registered electors of an elementary district who reside in territory that is a part of an elementary district may petition the county superintendent to transfer the territory in which they reside to another elementary district if:

(a) the territory to be transferred is contiguous to the district to which it is to be attached;

(b) the territory to be transferred is not located within 3 miles, over the shortest practical route, of an operating school of the district from which it is to be detached;

(c) the transfer of the territory will not reduce the taxable value of the district to less than $100,000 unless the remaining territory of the district will contain not less than 50,000 acres of nontaxable indian land;

(d) the board of trustees of the school district that would receive the territory has approved the proposed transfer in writing ~~the transfer~~; and

(e) the territory proposed to be transferred to another elementary district has not been included in a petition filed under this section in the previous 3 years.

(2) The petition must be addressed to the county superintendent and must:

(a) provide a legal description of the territory that is requested to be transferred and a description of the elementary district to which it is to be transferred;

(b) state the reasons why the transfer is requested;

(c) state the number of elementary school-age children residing in the territory; and

(d) be accompanied by a ~~$50~~ $100 nonrefundable filing fee.

(3) A petition that meets the criteria specified in subsection (1) and that contains all the information required by subsection (2) is considered a valid petition. On receipt of a valid petition for a territory transfer, the county superintendent shall:

(a) file the petition;

(b) set a hearing place, date, and time for consideration of the petition that is not more than 40 days after receipt of the petition; and

(c) give notice of the place, date, and time of the hearing. The notices must be posted in the districts affected by the petition for the transfer of territory in the manner prescribed in this title for school elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered to the board of trustees of the school district from which the territory is to be transferred.

(4) The county superintendent shall conduct the hearing as scheduled in accordance with the rules of procedure adopted by the superintendent of public instruction pursuant to 20-3-107(3), and any resident, taxpayer, or representative of the affected districts must, upon request, be heard.

(5) Within 30 days after the hearing, the county superintendent shall, after considering the testimony and exhibits presented at the hearing, issue findings of fact, conclusions of law, and an order. The county superintendent shall grant or deny the requested transfer of territory. The decision must be based on the effects that the transfer would have on those residing in the territory proposed for transfer as well as those residing in the remaining territory of the elementary district.

(6) The decision of the county superintendent is final 30 days after its date unless it is appealed ~~to the board of county commissioners~~ to the ~~superintendent of public instruction in accordance with 20-3-107~~ DISTRICT COURT by a resident, taxpayer, or representative of ~~the~~ either elementary ~~districts~~ district affected by the petitioned territory transfer.

~~(7) The decision of the board of county commissioners~~ superintendent of public instruction, ~~after a hearing on the matter and consideration of the record from the county superintendent's hearing, is final 30 days after its date unless prior to that time it has been contested through the filing of a valid petition to submit the question to a vote of the people in the elementary district from which the land is to be transferred. In order for a petition to be valid, the petition must be signed by 20% of the electors of the elementary district who are qualified to vote in elections for that district under 20-20-301. When a valid petition is submitted under this subsection, the question of whether the territory must be transferred to another district must be put before the voters at the next regular school election in the affected elementary district. The results of the vote must be the final decision on the petition for transfer of territory. The final order of the superintendent of public instruction is subject to judicial review under the Montana Administrative Procedure Act, Title 2, chapter 4.~~

~~(8)~~(7) Whenever a petition to transfer territory from one elementary district to another elementary district creates a joint elementary district or affects the boundary of an existing joint elementary district, the petition to transfer territory must be presented to the county superintendent of the county where the territory is located. The county superintendent shall notify any other county superintendents of counties with elementary districts affected by the petition, and the duties prescribed in this section for the county superintendent ~~and the board of county commissioners~~ must be performed jointly ~~by the county officials~~. If the number of county superintendents involved is an even number, the county superintendents shall jointly appoint an additional county superintendent from an unaffected county to join them in conducting the hearing required in subsection (4) and issuing the decision required in subsection (5). The decision issued under subsection (5) must be made by a majority of the county superintendents.

~~(9)~~(8) A petition seeking to transfer elementary territory out of or into a K-12 district must be accompanied by a petition to transfer the same territory as high school territory in accordance with 20-6-320. In the case of a proposed transfer out of or into a K-12 district, an elementary petition that is not accompanied by the high school petition is invalid for the purpose of subsection (3)."

**Section 2.** Section 20-6-314, MCA, is amended to read:

"**20-6-314. Time limitations for boundary changes.** ~~No~~ A high school district may not be created and ~~no~~ a high school district boundary may not be changed between the first day of ~~March~~ January and the second Monday of August of any calendar year except when:

(1) the entire territory of a high school district is annexed or attached to another high school district;

(2) the entire territory or portion of a joint high school district located in one county is annexed or attached to another high school district; or

(3) two or more districts are consolidated in their entirety."

**Section 3.** Section 20-6-320, MCA, is amended to read:

"**20-6-320. Transfer of territory from one high school district to another.** (1) A majority of registered electors of a high school district who reside in territory that is a part of a high school district may petition the county superintendent to transfer the territory in which they reside to another high school district if:

(a) the territory to be transferred is contiguous to the high school district to which it is to be attached;

(b) the territory to be transferred is not located within 3 miles, over the shortest practical route, of an operating school of the high school district from which it is to be detached;

(c) the transfer of the territory will not reduce the taxable value of the district to less than $300,000 unless the remaining territory of the high school district contains not less than 50,000 acres of nontaxable Indian land;

(d) the board of trustees of the school district that would receive the territory has approved the proposed transfer in writing ~~the transfer~~; and

(e) the territory proposed to be transferred to another high school district has not been included in a petition filed under this section in the previous 3 years.

(2) The petition must be addressed to the county superintendent and must:

(a) provide a legal description of the territory that is requested to be transferred and a description of the high school district to which it is to be transferred;

(b) state the reasons why the transfer is requested;

(c) state the number of high-school-age children residing in the territory; and

(d) be accompanied by a ~~$50~~ $100 nonrefundable filing fee.

(3) A petition that meets the criteria specified in subsection (1) and that contains all the information required by subsection (2) is a valid petition. On receipt of a valid petition for a territory transfer, the county

superintendent shall:

(a) ~~present the petition to the board of county commissioners for certification that the criteria set forth in subsection (1) have been met. The board shall, within 10 days of receiving the petition, return it to the county superintendent with certification, signed by a majority of the board, that the criteria have been met or with a notation, signed by a majority of the board, that the criteria have not been met. The board's certification is binding on the county superintendent unless the county superintendent believes that the certification is in error. A dispute between the board and the county superintendent on this issue must be decided by the superintendent of public instruction and the decision of the superintendent of public instruction on the matter is final.~~

~~(b)~~ file the petition; ~~as certified by the board of county commissioners.~~

~~(4) If the petition is certified or adjusted on appeal to the superintendent of public instruction to meet the criteria specified in subsection (1), the county superintendent shall:~~

~~(a)~~(b) set a hearing place, date, and time for consideration of the petition that is not more than 40 days after receipt of the petition; and

~~(b)~~(c) give notice of the place, date, and time of the hearing. The notices must be posted in the high school districts affected by the petition for the territory transfer in the manner prescribed in this title for school elections, with at least one notice posted in the territory to be transferred. Notice must also be delivered to the board of trustees of the school district from which the territory is to be transferred.

~~(5)~~(4) The county superintendent shall conduct the hearing as scheduled in accordance with the rules of procedure adopted by the superintendent of public instruction pursuant to 20-3-107(3), and any resident, taxpayer, or representative of either affected high school district must be heard.

~~(6)~~(5) Within 30 days after the hearing, the county superintendent shall, after considering the testimony and exhibits presented at the hearing, issue findings of fact, conclusions of law, and an order. The county superintendent shall grant or deny the requested transfer of territory. The decision must be based on the effects that the transfer would have on those residing in the territory proposed for transfer as well as those residing in the remaining territory of the high school district.

~~(7)~~(6) The decision of the county superintendent is final 30 days after its date unless it is appealed ~~pursuant to 20-3-107~~ to the ~~superintendent of public instruction~~ DISTRICT COURT by a resident, taxpayer, or representative of either high school district affected by the petitioned territory transfer. ~~The decision of the superintendent of public instruction, after consideration of the record from the county superintendent's~~

~~hearing, is final 30 days after its date. The final order of the superintendent of public instruction is subject to judicial review pursuant to the Montana Administrative Procedure Act, Title 2, chapter 4.~~

~~(8)~~(7) If a petition to transfer territory from one high school district to another high school district would create a joint high school district or affect the boundary of any existing joint high school district, the petition must be presented to the county superintendent of the county where the territory proposed for transfer is located. The county superintendent shall notify any other county superintendents of counties with districts affected by the petition, and the duties prescribed in this section for the county superintendent must be performed jointly ~~by such county officials~~. If the number of county superintendents is an even number, the county superintendents shall jointly appoint a county superintendent from an unaffected county to join them in conducting the hearing required by subsection (4) and in issuing the decision required by subsection (5). The decision issued under subsection (5) must be made by a majority of the county superintendents.

(8) A petition seeking to transfer high school territory out of or into a K-12 district must be accompanied by a petition to transfer the same territory as elementary territory in accordance with 20-6-213. In the case of a proposed transfer out of or into a K-12 district, a high school petition that is not accompanied by an elementary petition is invalid for the purpose of subsection (3)."

**Section 4.** Section 20-6-703, MCA, is amended to read:

"**20-6-703. Transitions after formation of K-12 school district.** (1) When an attachment order for a K-12 school district becomes effective on July 1 under the provisions of 20-6-701:

(a) the ~~board of county commissioners~~ county superintendent shall order the trustees to execute all necessary and appropriate deeds, bills of sale, or other instruments for the conveyance of title to all real and personal property of the elementary district to the high school district;

(b) the trustees of the elementary district shall entrust the minutes of the board of trustees, the elementary district documents, and other records to the high school district to which it is attached; and

(c) the county treasurer shall transfer all end-of-the-year warrants and fund balances of the attached elementary district to the similar funds established for the K-12 school district in the high school district.

(2) All taxes levied by and revenue due from a previous school fiscal year to an elementary district attached to a high school district must be payable to the appropriate fund of the high school district.

(3) The previous year's general fund budget amounts for the elementary district and the high school district that form a K-12 school district must be combined to determine the budget limitation for the ensuing school fiscal year pursuant to 20-9-308."

NEW SECTION. **Section 5. Boundary adjustments in high school districts.** The trustees of a high school district may, by resolution, request a change in the boundaries between their district and an adjacent district. The resolution must be addressed to the county superintendent of schools who, upon receiving a resolution, shall proceed as provided in 20-6-320.

NEW SECTION. **Section 6. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 20, chapter 6, part 3, and the provisions of Title 20, chapter 6, part 3, apply to [section 5].

NEW SECTION. **SECTION 7. EFFECTIVE DATE.** [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

-END-